

(Practitioner's Docket No. IN-5506/BC1-0066)

REMARKS**1. Rejoinder of claims 10-13, 23-25, 27-29, and 31-35.**

Applicants and the Undersigned note the PTO's withdrawal from consideration of claims 10-13, 23-25, 27-29, and 31-35. It is the PTO's position that these claims are directed toward a nonelected invention because the process claim 10 recites an aqueous phase, but claim 1 does not recite any water. Thus, the PTO states that the components recited for the composition and process claims are different from each other.

Applicants and the Undersigned appreciate the detailed comments but must respectfully disagree and again request rejoinder per MPEP 821.04.

MPEP 821.04 provides that "...if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claims will be rejoined."

It is respectfully submitted that Applicants' process claim 10 meets this standard. For example, claim 10 includes all of the limitations of independent claim 1. Nothing in MPEP 821.04 requires that claim 1 recite all of the limitations set forth in claim 10. Finally, it is noted that claim 1 includes the open transition phrase "comprising". Thus, it is appropriate for process claim 10 to recite an element that is not recited in claim 1.

Accordingly, rejoinder is respectfully requested in view of MPEP 821.04 and the following amendments and remarks. The Examiner is encouraged to contact the Undersigned directly by telephone if additional concerns remain.

2. Identification of claims 3 and 7 as allowable and amendment of claim 1.

Applicants and the Undersigned greatly appreciate the PTO's identification of claims 3 and 7 as allowable subject matter and the statement that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(Practitioner's Docket No. IN-5506/BC1-0066)

Applicants note that per the PTO's suggestion, independent claim 1 has been amended to incorporate the limitations of dependent claim 3. Claim 3 has been canceled. Claim 7 has been amended to depend from amended claim 1.

No new matter has been added with this amendment.

Entry of this amendment is respectfully requested under 37 CFR 1.115. The amendment places the application in a better condition for allowance and/or for the purposes of appeal. The previously made amendments were made in good faith. The instant amendments were not deemed necessary until receipt of the PTO's comments in the most recent Office Action.

3. Rejection of claims 1, 2, 4-6, 14, 15 and 18-20 under 35 U.S.C. §103(a) as obvious over Williams et al., U.S. 5,379,947, hereafter "Williams" or "947" and EP 0 844 286.

The instant rejection is believed to be moot in view of the foregoing amendment to independent claim 1. As noted by the PTO, the subject matter of claim 3 is allowable over the art of record. Accordingly, the incorporation of the limitations of now canceled dependent claim 3 into claim 1 render amended claim 1 nonobvious over the cited prior art.

Reconsideration and removal of the rejection is respectfully requested as to amended independent claim 1 in as much as the cited combination fails to disclose or suggest all of the limitations contained there. Similarly, dependent claims 2, 4-6, 14, 15, and 18-20 are likewise believed to be nonobvious since they incorporate the limitations of amended independent claim 1.

AUG 09, 2004 07:29

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page 3

(Practitioner's Docket No. IN-5506/BC1-0066)

CONCLUSION

Applicants respectfully submit that the Application and pending claims are patentable in view of the foregoing amendments and/or remarks. A Notice of Allowance is respectfully requested. As always, the Examiner is encouraged to contact the Undersigned by telephone if direct conversation would be helpful.

Respectfully Submitted,



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